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## **OLR Bill Analysis**

### **sHB 5537**

#### ***AN ACT ESTABLISHING A PROPERTY TAX PROGRAM TO ENCOURAGE THE PRESERVATION OF HISTORIC BARNs.***

#### **SUMMARY:**

This bill authorizes municipalities to create, by ordinance, a discretionary preservation easement for certain historic agricultural structures. It defines a "historic agricultural structure" as a barn or other structure, including the land necessary for the function of the structure, currently or formerly used for agricultural purposes and at least 75 years old.

The bill sets the criteria and terms for a property owner to convey and for a municipality to accept a preservation easement for a historic agricultural structure. Under the bill, the easement is for 10 years.

The bill allows a municipality to (1) create additional eligibility criteria and (2) renew easements, including specifying a formula for calculating the assessment of any improvements made to the historic agricultural structure during the term of the previous easement.

It penalizes a person who obtains an early release on the easement or fails to maintain the historic structure. The penalty equals 10% of the amount of property tax that would have been due for the historic agricultural structure if it was not subject to the discretionary preservation easement. The penalty must be based on the assessed value of the historic agricultural structure in the assessment year in which the penalty is levied.

**EFFECTIVE DATE:** Upon passage and applicable to assessment years beginning on or after October 1, 2012.

#### **CRITERIA**

Under the bill, a discretionary preservation easement can only be

accepted if an historic agricultural structure:

1. provides scenic enjoyment to the general public from a public road;
2. is historically important on a local, regional, state or national level, either independently or as part of an historic district established under state law; or
3. has physical or aesthetic features that contribute to the historic or cultural integrity of a property listed on or eligible for listing on the National Register of Historic Places, or on the state register of historic places.

#### **HISTORIC AGRICULTURAL STRUCTURE OWNER**

Under the bill, for assessment years beginning on or after October 1, 2012, any owner of an historic agricultural structure located in a municipality that has passed the required ordinance may apply by July 1 to convey to the municipality a discretionary preservation easement over that historic structure. "Municipality" means any city, town, borough, district, or association with municipal powers (presumably a special taxing district).

The application must be made on a form the legislative body prescribes and contain a certification by the owner that, during the term of any discretionary preservation easement the legislative body accepts, the owner will maintain the historic agricultural structure in keeping with its historic integrity and character.

Under the bill, "legislative body" means the legislative body of the municipality or, where the legislative body is the town meeting, the board of selectmen or town council.

#### **MUNICIPAL PUBLIC HEARING AND APPLICATION DECISION**

Under the bill, the legislative body must conduct a public hearing on the application no later than 30 days after the date on which the application was filed and must render its decision no later than 60 days after the filing.

The bill specifies that, in making its decision, the legislative body must consider any eligibility criteria in the ordinance and under the bill and may weigh the public benefit to be obtained against the property tax revenue that will be lost by accepting a discretionary preservation easement.

If the legislative body denies a discretionary preservation easement application, it must provide a written explanation of its decision to the owner. There is no right of appeal from the legislative body's decision.

If the legislative body approves an application, it must establish the property tax payment amount for the historic agricultural structure, provided the payment is effective only upon the execution and recording of an easement agreement (i.e., the document conveying the discretionary preservation easement) meeting the bill's requirements.

The property tax payment amount must be established to reflect, in the sole discretion of the legislative body, the value of the public benefit received from the discretionary preservation easement. The legislative body must provide written notice of its decision and the property tax payment amount to the owner and may acquire a discretionary preservation easement by entering into an easement agreement with the owner.

## **EASEMENT AGREEMENT**

The discretionary preservation easement the owner conveys to the municipality is a burden on the property and binds all transferees and assignees of the property, and cannot be assigned, transferred, or released by the municipality without the consent of the owner. It must be recorded on the land records at the owner's expense and include the property tax payment amount and any renewal terms.

When the easement expires, the owner may apply for a renewal if the easement agreement does not provide for automatic renewal, and the legislative body must process the application for a renewal in the same manner as a new application.

## ***Easement Release and Penalty***

The bill requires the legislative body to release a discretionary preservation easement at the owner's request if it determines that the:

1. owner cannot comply with the easement agreement's terms due to extreme personal hardship or
2. historic agricultural structure has been significantly damaged or destroyed by fire, storm, or any other unforeseen circumstance not within the owner's control.

When released, the owner must pay an early release penalty, except if the structure was significantly damaged or destroyed by fire, storm, or any other unforeseen circumstance not within the owner's control.

If, during the term of a discretionary preservation easement, the legislative body determines that the owner failed to maintain the structure in accordance with the easement agreement, the legislative body may terminate the easement and levy an early release penalty described above.

#### **COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea    20    Nay   0    (03/23/2012)